

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 137.119, the Iowa Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 77, “Local Boards of Health,” and to adopt new Chapter 77 with the same title and to rescind Chapter 78, “District Health Departments,” Iowa Administrative Code.

The proposed rules in new Chapter 77 define the roles and responsibilities, parameters and structure of the local boards of health. Chapter 77 also allows local boards of health and boards of supervisors an optional process to merge counties to form a district board of health in order to increase the efficiencies of the core functions of public health and to meet public health standards. This proposed rule making also rescinds Chapter 78, pertaining to district health departments, because the rules in Chapter 78 are superseded by new Chapter 77.

Any interested person may make written suggestions or comments on the proposed amendments on or before August 16, 2011. Such written comments should be directed to Joy Harris, Bureau of Communication and Planning, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to joy.harris@idph.iowa.gov.

Also, a public hearing will be held on Tuesday, August 16, 2011, from 9 to 11 a.m. on GoToMeeting. Interested persons may join the meeting by computer by accessing the following Web site: <https://www1.gotomeeting.com/join/427922769>. The use of microphone and speakers (VoIP) or a headset is recommended. Interested persons may also join the meeting by telephone in the U.S. and Canada, toll-free, at 1-877-568-4106; the access code is 427-922-769, and an audio PIN will be shown after the person joins the meeting. Persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Department of Public Health and advise of specific needs.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 137.

The following amendments are proposed.

ITEM 1. Rescind 641—Chapter 77 and adopt the following **new** chapter in lieu thereof:

CHAPTER 77 LOCAL BOARDS OF HEALTH

641—77.1(137) Purpose. The local board of health shall have jurisdiction over public health matters within its designated geographic area in accordance with Iowa Code chapter 137. The local board of health shall promote and protect the health of the residents and shall carry out the powers of local boards as specified in Iowa Code sections 137.103 and 137.104 and all applicable Iowa Code chapters.

641—77.2(137) Definitions. For the purpose of these rules, the following definitions apply:

“*Core public health functions*” means the functions of assessment, policy development, and assurance.

1. Assessment: Regular collection, analysis, interpretation, and communication of information about health conditions, risks, and assets in a community.

2. Policy development: Development, implementation, and evaluation of plans and policies, for public health in general and priority health needs in particular, in a manner that incorporates scientific information and community values and in accordance with state public health policy.

3. Assurance: Ensuring by encouragement, regulation, or direct action that programs and interventions that maintain and improve health are carried out.

“Department” means the Iowa department of public health.

“District” means any two or more geographically contiguous counties.

“Environmental health services” means services focused on the environment to support population-based health services.

“Essential public health services” means those activities carried out by public health that fulfill the core functions.

“Iowa public health standards” means the governmental public health standards adopted by rule by the state board of health.

“Local board of health” means a city, county, or district board of health.

“Personal health services” means services focused on the care of individuals.

“Population-based health services” means services focused on the health status of population groups and their environments.

641—77.3(137) Local boards of health—roles and responsibilities. Public health is responsible for safeguarding the community’s health. This goal is pursued through three core functions: assessment, policy development and assurance.

77.3(1) Assessment: Regularly and systematically collect, assemble, analyze, and make available information on the health of the community, including statistics on health status, community health needs, personal health services, and epidemiologic and other studies of health problems. A local board of health may perform the following essential public health services:

- a. Monitor health status to identify community health problems;
- b. Diagnose and investigate health problems and health hazards in the community; and
- c. Evaluate effectiveness, accessibility, and quality of personal, population-based, and environmental health services.

77.3(2) Policy development: Exercise its responsibility to serve the public interest in the development of comprehensive public health policies. This core function can be accomplished by promoting use of a scientific knowledge base in decision making about public health and by taking the lead in public health policy development.

- a. A local board of health may perform the following essential public health services:
 - (1) Develop policies and plans that support individual and community health efforts; and
 - (2) Research new insights and innovative solutions to health problems and health threats.
- b. A local board of health shall perform the following essential public health services:
 - (1) Enforce laws and regulations that protect public health and enforce lawful orders of the department;
 - (2) Make and enforce reasonable rules and regulations not inconsistent with the law, the rules of the state board, or the Iowa public health standards as may be necessary for the protection and improvement of the public health; and
 - (3) Employ persons as necessary for the efficient discharge of its duties. Employment practices shall meet the requirements of Iowa Code chapter 8A, subchapter IV, or any civil service provision adopted under Iowa Code chapter 400.

77.3(3) Assurance: Assure their constituents that services necessary to achieve agreed-upon goals are provided either by encouraging action by other entities (private or public sector), by requiring such action through regulation, or by providing services directly. Each local board of health must involve key policymakers and the general public in determining a set of high-priority personal and population-based health services. A local board of health may perform the following essential public health services:

- a. Link people to needed personal health services; provide such personal, population-based and environmental health services as deemed necessary for the promotion and protection of the health of the public; and charge reasonable fees for personal health services;
- b. Ensure the competence of the public health, environmental health, and personal health care workforce;
- c. Inform, educate, and empower people about health issues;
- d. Mobilize community partnerships to identify and solve health problems;
- e. Issue licenses and permits and charge reasonable fees in relation to the construction or operation of nonpublic water supplies or private sewage disposal systems;
- f. Engage in joint operations by:
 - (1) Contracting with colleges and universities, the department, other public, private, and nonprofit agencies, and individuals; or
 - (2) Forming a district health department to provide personal and population-based health services; and
- g. Enforce, by written agreement with the council of any city within its jurisdiction, appropriate ordinances of the city relating to public health.

641—77.4(137) Local boards of health—Iowa public health standards. Local boards of health may:

- 1. Designate an agency to assure compliance with the Iowa public health standards in the jurisdiction.
- 2. Demonstrate a commitment to comply with the Iowa public health standards.
- 3. Request at least annually reports from organizations that provide public health services within the jurisdiction.

641—77.5(137) Organization of local boards of health.

77.5(1) *Qualifications.* Members of a local board of health should have experience or education related to the core public health functions, essential public health services, public health, environmental health services, personal health services, population-based services, or community-based initiatives.

77.5(2) *Officers of local boards of health.* Each local board of health shall, at its first meeting during any calendar year, elect one of its members to serve as chairperson until the first meeting of the following calendar year.

- a. The local board of health may elect a vice-chairperson, secretary, or other such officers as it may deem advisable.
- b. In case of a vacancy of the office of chairperson, a successor, who shall serve the remainder of the term, shall be elected at the next meeting of the board.

77.5(3) *Meetings of local boards of health.* The place, date and time of regular meetings of the local board of health shall be determined by vote of the board, and such meetings shall comply with the provisions of the open meetings law which is found in Iowa Code chapter 21.

- a. Each local board of health shall meet at least six times per year.
- b. Special meetings of a local board of health may be called, as needed, by the chairperson or by any three board members. The local board of health shall provide at least 24 hours' notice of special meetings, except in case of emergency.
- c. A majority of the members of a local board of health shall be considered a quorum, and an affirmative vote of the majority of the members present is necessary for action taken by a local board of health. The majority shall not include any member who has a conflict of interest, and a statement by the member that a conflict of interest exists shall be conclusive for this purpose.

641—77.6(137) Operation of local boards of health. Local boards of health shall submit to the department the following information:

77.6(1) Names, addresses, E-mail addresses and telephone numbers of members of the local board of health, within one month after their appointment.

77.6(2) Names of the chairperson and any other officers elected by the local board of health, within one month after their election.

77.6(3) A copy of the minutes of each regular and special meeting of the local board of health, within two weeks of their being approved. The minutes shall include at least:

- a. The date and place of the meeting;
- b. A list of members present; and
- c. A report of any official board actions.

641—77.7(137) Expenses of local board of health members.

77.7(1) The following may be considered necessary expenses of local board of health members:

- a. Travel in private car on local board of health business at the same rate as provided for a public officer or employee in Iowa Code section 70A.9.
- b. Lodging and meal expenses including sales tax on lodging and meals.
- c. Expense of public transportation when traveling on local board of health business.
- d. Miscellaneous expenses related to performance of duties as approved by the local board of health.
- e. Training and education expenses.

77.7(2) This rule shall not be construed as requiring the payment of reimbursement to any person or as prohibiting local boards of health from imposing additional restrictions or administrative requirements on expenses of their members.

641—77.8(137) District boards of health. The county boards of health of any two or more geographically contiguous counties may at any time submit to the department a written request to form a district board of health.

77.8(1) A request to form a district board of health shall be executed by the county boards of supervisors and the county boards of health for each county comprising the proposed district.

77.8(2) A request to form a district board of health shall be submitted to the department and shall be completed on the department's application form. The application form shall include:

- a. A written narrative that explains how the formation of a district board of health will increase organizational capacity and capability to provide population-based and personal health services compared with operating as individual county boards.
- b. A written narrative that details the infrastructure capability of the proposed district to deliver core public health functions, provide essential public health services, and comply with Iowa public health standards.
- c. The composition of the district board of health, including the number of members each county shall appoint pursuant to Iowa Code section 135.105 and the total number of members on the district board of health.
- d. Proof of approval by all county boards of supervisors and county boards of health involved in the request to form a district and of the elements included in the formation plan.
- e. A service delivery plan to include each component of the public health standards. The service delivery plan shall detail how population-based and environmental health services will be delivered throughout the district.
- f. The budget and fiscal plan for the proposed district. The budget plan shall include an estimate of the proposed expenditures and revenues and an allocation of the revenue responsibilities of each of the counties participating in the proposed district.
- g. A table of organization.
- h. A personnel system description, including identification of the district treasurer and district auditor and a section which addresses the employment issues contained in Iowa Code section 137.110.
- i. The location of the district offices and workforce throughout the jurisdiction. The request shall include a map showing district boundaries.
- j. An inventory of the property and equipment in the custody of each county board of health and a description as to whether such property and equipment shall remain in the custody of the county board

of health or shall be transferred to the district board of health to become property of the district board of health. Property and equipment include any item which costs more than \$5,000.

k. An information technology (IT) plan that details the formation of a centralized IT department able to serve the needs of the proposed district.

l. A proposed date upon which the district board of health shall be formed and established and a timeline for the adoption of district board of health rules and regulations.

641—77.9(137) Approval of district board of health formation.

77.9(1) Upon receipt of the application form and all information contained in rule 641—77.8(137), the department shall review such information and shall determine, within 30 days, whether the required elements have been presented by the proposed district.

77.9(2) The department shall present its findings to the state board of health at the board's next regularly scheduled meeting, at which time the state board of health may approve formation of the district board of health.

77.9(3) The state board of health shall immediately provide notice of approval of district board of health formation, including effective dates, to the county board of health of each county in the district and to the board of supervisors of each county in the district.

77.9(4) Upon receipt of the notice of approval of district board of health formation, each appointing authority shall, prior to the effective date of district board of health formation, appoint district board of health members as specified in Iowa Code section 137.105.

641—77.10(137) Denial of district board of health formation. The department and the state board of health have the authority to deny formation of a district board of health. The department is responsible for assessing the application form for completeness and accuracy. The state board of health has the authority to deny formation of a district board of health if the application does not show sufficient organizational capacity to deliver core public health functions and essential public health services, does not ensure compliance with the Iowa public health standards, or otherwise fails to conform with Iowa Code chapter 137 or this chapter.

77.10(1) The department will notify, in writing, all local boards of health in the proposed district of the reason and rationale for the denial of the district formation within 30 days of the decision.

77.10(2) The local boards of health in the proposed district shall have the right to request reconsideration of the decision by submitting the request to the department within 30 days of receiving notice of the decision.

77.10(3) The state board of health shall reconsider the request by the local boards of health at its next regularly scheduled meeting. The reconsideration shall not constitute a contested case hearing. The state board of health's final decision following reconsideration shall constitute final agency action pursuant to Iowa Code section 17A.19, and judicial review of any such decision shall be treated as other agency action.

641—77.11(137) Adding to a district board of health. A county may be added to an existing district board of health by submission and approval of a request, as specified in Iowa Code sections 137.106 and 137.107.

641—77.12(137) Withdrawal from a district board of health. A county may voluntarily withdraw from a district by submitting a request for withdrawal to the department for approval. The request shall include a timeline and plan to reestablish a county board of health or to join a different district board of health to provide the core public health functions and essential public health services to its geographic area.

77.12(1) If the request for withdrawal of the applicant county from the district is approved by the state board of health, an effective date shall be set for the action, and notification shall be sent to the district board of health and the board of supervisors of the applicant county.

77.12(2) The ownership of property and equipment shall follow the guidelines submitted in the original request to form the district board of health.

77.12(3) The remaining counties in the district shall submit an application including the information specified in rule 641—77.8(137) to the department for review as provided in Iowa Code section 137.107.

These rules are intended to implement Iowa Code chapter 137.

ITEM 2. Rescind and reserve **641—Chapter 78**.